

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:11cv244**

**USA TROUSER, S.A. de C.V.,**

**Plaintiff,**

**v.**

**INTERNATIONAL LEGWEAR  
GROUP, INC., et al.,**

**Defendant.**

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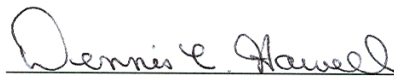
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**ORDER**

Pending before the Court is the Plaintiff's Second Motion to Compel [# 34]. Plaintiff seeks an Order from this Court compelling Defendant International Legwear Group, Inc. ("International Legwear") to respond to discovery. Pursuant to the Order of the District Court, however, Defendant International Legwear is in default. (Order, Feb. 1, 2012.) On February 2, 2012, the Clerk entered default against Defendant International Legwear. As a result of the striking of Defendant International Legwear's Answer and the entry of default, Defendant International Legwear has admitted to all the well-plead allegations in the Complaint. Ryan v. Homecomings Fin. Network, 253 F.3d 778, 780 (4th Cir. 2001). To date, Defendant International Legwear has not moved to set aside the entry of default. This Court is not going to compel a party in default to respond to

discovery. Rather, the proper course of action for Plaintiff to pursue is the filing of a motion for the entry of default judgment. If the claim is for a sum certain, Plaintiff may proceed under Rule 55(b)(1). Otherwise, Plaintiff will have to proceed under Rule 55(b)(2). The Court **DENIES** the Motion to Compel [# 34].

Signed: September 5, 2012

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Dennis L. Howell  
United States Magistrate Judge

